

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 748 - SB 864

March 23, 2011

SUMMARY OF BILL: Creates a mandatory minimum 45-day sentence for a second violation of domestic assault, which is currently punishable as a Class A or Class B misdemeanor assault. Elevates a third or subsequent violation of domestic assault to a Class D felony.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant

Increase State Expenditures - \$38,820,500/Incarceration*

Increase Local Revenue – Not Significant

Increase Local Expenditures - \$4,493,100**

Assumptions:

- According to the Administrative Office of the Courts, there has been an average of 683 convictions of domestic assault in each of the past five years. State court convictions are 10 percent of the total convictions. Total convictions, including general sessions courts, are estimated to be 6,830 per year.
- Fifty-five percent (3,757) of the total Class A or Class B misdemeanors will be first-time offenders. One third (2,277) of the total will be second-time offenders and will serve a mandatory 45-day sentence. There are no data available on actual incarceration costs for local jails. According to the Department of Correction (DOC), the average county reimbursement for housing state felons for FY10-11 is \$43.85. Estimate assumes the statewide county cost for county jails is \$43.85 per offender per day. The total additional operating cost to local government for 2,277 offenders serving a mandatory 45-day sentence is \$4,493,090.25 (\$43.85 x 2,277 offenders x 45 days).
- The remaining 796 (6,830 - 3,757 - 2,277) will be third-time or subsequent violations and will result in a Class D felony rather than a Class A or Class B misdemeanor in the first year as a result of this bill.
- According to the U. S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in 94 additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 890 offenders.

- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62 and the average post-conviction time served for a Class D felony is 1.97 years (719.54 days) at a cost of \$43,618.51 (\$60.62 x 719.54 days). The total additional operating cost for 890 offenders is \$38,820,473.90 (\$43,618.51 x 890).
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenders is negligible. There will not be a significant increase in state revenue as a result.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

***Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc